

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MMCA GROUP, LTD.,

Plaintiff,

v.

HEWLETT-PACKARD COMPANY, et al.,

Defendants

No. C-06-7067 MMC

**ORDER DENYING PLAINTIFF'S
MOTION FOR LEAVE TO FILE MOTION
TO RECONSIDER; GRANTING MOTION
FOR CLARIFICATION**

Before the Court is plaintiff's motion, filed June 5, 2008 pursuant to Civil Local Rule 7-9, for leave to file a motion for reconsideration of the Court's May 29, 2008 order, by which order the Court dismissed all claims against defendant Pinkerton Consulting & Investigations, Inc. ("PC&I") and denied plaintiff's request for leave to further amend the complaint. Alternatively, plaintiff seeks clarification of the Court's rationale for dismissal of plaintiff's claim against PC&I for trade secret misappropriation. Having read and considered the motion, the Court rules as follows.

1. Leave to File Motion for Reconsideration

Plaintiff requests reconsideration of the above-referenced order to the extent the Court, by such order, denied plaintiff leave to amend the complaint. Although, as plaintiff points out, the prior amendments to which the Court made reference did not concern any

1 asserted insufficiency of the allegations against PC&I, the Court's determination that
2 further amendment would be futile was not based on the number of prior amendments but
3 rather on plaintiff's failure to identify additional facts it could include in an amended
4 pleading.

5 In the instant motion, plaintiff again fails to identify any additional facts with respect
6 to PC&I. Rather, plaintiff proposes to add conclusory allegations that PC&I "wrongfully
7 obtained" alleged trade secrets, "knew" the information was confidential, and engaged in
8 "wrongful contact" with plaintiff's agents. (See Mot. at 7:9-8:2.) Because plaintiff's
9 proposed amendments will not serve to cure the deficiencies identified in the Court's order
10 of May 29, 2008, and because plaintiff has not shown reconsideration is otherwise
11 warranted, plaintiff's motion for leave to file a motion for reconsideration will be denied.

12 2. Clarification

13 As noted, plaintiff seeks, in the alternative, clarification of the grounds on which the
14 dismissal was based. In its order of May 29, 2008, the Court granted defendant PC&I's
15 motion to dismiss the misappropriation of trade secrets claim "for the reasons set forth by
16 PC&I." (See Order Granting Mot. to Dismiss Def. PC&I at 1:24.) Because PC&I proffered
17 several alternative grounds for dismissal of that claim, (see PC&I's Mot. to Dismiss at 9:5-
18 10:21), plaintiff requests clarification as to which of such grounds the Court adopted in
19 granting dismissal. As set forth below, plaintiff's request for clarification will be granted.

20 With respect to plaintiff's claim against PC&I for trade secret misappropriation, the
21 Court, in stating that the motion to dismiss was granted "for the reasons set forth by PC&I,"
22 did not intend thereby to adopt or otherwise rely on any ground other than the first ground
23 asserted by PC&I, specifically, that plaintiff had not alleged facts sufficient to plead PC&I
24 had misappropriated or wrongfully obtained the names of MMCA employees. The Court
25 did not reach or rely upon the additional arguments PC&I made in support of its motion to
26 dismiss that claim.

27 **CONCLUSION**

28 For the reasons set forth above, plaintiff's motion for leave to file a motion for

1 reconsideration is hereby DENIED; plaintiff's alternative motion for clarification is hereby
2 GRANTED as set forth herein.

3 **IT IS SO ORDERED.**

4 Dated: June 11, 2008


MAXINE M. CHESNEY
United States District Judge